

FILE COPY

STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE APPLICATION :
FOR A CERTIFICATE TO PRACTICE :
ARCHITECTURE OF :
:

FINAL DECISION
AND ORDER
LS#407182ARC

DAVID F. MAHER,
APPLICANT. :
:

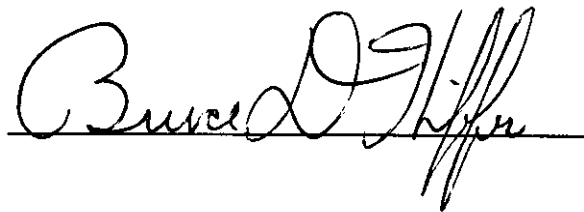
The State of Wisconsin, Examining Board of Architects, Professional Engineers,
Designers and Land Surveyors, having considered the above-captioned matter and having
reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the
following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto,
filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final
Decision of the State of Wisconsin, Examining Board of Architects, Professional Engineers,
Designers and Land Surveyors.

The rights of a party aggrieved by this Decision to petition the department for rehearing
and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 16th day of DECEMBER 1994.



**STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS - ARCHITECT SECTION**

**IN THE MATTER OF THE APPLICATION FOR
A LICENSE TO PRACTICE ARCHITECTURE**

**PROPOSED DECISION
LS9407182ARC**

**DAVID F. MAHER,
APPLICANT.**

The parties to this proceeding for the purposes of Wisconsin Statutes, sec. 227.53 are:

David F. Maher
4450 Highway 45 South
Oshkosh, Wisconsin 54901

Board of Architects, Professional Engineers,
Designers and Land Surveyors - Architect Section
P.O. Box 8935
Madison, Wisconsin 53708

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708

This proceeding was commenced by the filing of a Notice of Hearing on July 27, 1994. A hearing was held in the above-captioned matter on August 19, 1994. Attorney Roger R. Hall appeared on behalf of the Department of Regulation and Licensing, Division of Enforcement. David F. Maher appeared in person without legal counsel.

Based upon the record herein, the Administrative Law Judge recommends that the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors - Architect Section adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Applicant, David F. Maher, 4450 Highway 45 South, Oshkosh, Wisconsin 54901, submitted an application with LGR Examinations, State College, Pennsylvania, to take the National Council of Architectural Registration Boards (NCARB) Architect Registration Examination.

2. On December 15, 1992, Maher took the Division C (Building Design) part of the NCARB Architect Registration Examination. He obtained a failing score on the examination.

3. On May 13, 1993, Maher submitted an examination review request to the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors - Architect Section for consideration relating to his failure of the Division C examination. His request was considered by the Architect Section at its meeting on May 27, 1993. The Section concurred with the reason for failure given by the National Council of Architectural Registration Boards (NCARB) relating to the Division C examination.

4. Applicant, David F. Maher, has not obtained a passing grade on the Division C part of the NCARB Architect Registration Examination.

5. Applicant has not filed an application for registration as an architect with the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors - Architect Section.

CONCLUSIONS OF LAW

1. The Examining Board of Architects, Professional Engineers, Designers and Land Surveyors - Architect Section has jurisdiction in this matter pursuant to ss. 15.405 (2), 443.03 and 443.09 (1), Wis. Stats.

2. The applicant, David F. Maher, has not successfully completed the examination on architectural services required for registration as an architect under s. 443.09 (4), Stats.

3. Applicant has not submitted an application for registration as an architect with the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors - Architect Section, as required under s. 443.03, Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the decision of the Architects, Professional Engineers, Designers and Land Surveyors - Architect Section that the applicant, David F. Maher, has not successfully completed the examination on architectural services required for registration as an architect, be and hereby is, affirmed.

OPINION

An individual applying for registration as an architect is required under s. 443.03, Stats., to file an application for registration with the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors - Architect Section.

One of the requirements for registration under s. 443.10 (1), Stats., is the successful completion of the examination on architectural services which measures the knowledge and skills necessary to competently practice architecture. In Wisconsin, applicants are required to successfully complete the NCARB Architect Registration Examination. The exam consists of 9 Divisions each of which may be taken separately. The Division C (Building Design) part is a 12-hour exam.

Maher took the Division C exam on December 15, 1992. He did not obtain a passing score on the exam. He filed a request with the Architect Section in May, 1993, requesting a review of his exam. The Section considered his request at its meeting on May 27, 1993, and voted to concur with the reason for failure given by NCARB.

The grading criteria used by NCARB in making its determination is based on the following categories: 1) Program requirements; 2) design logic; 3) code compliance; 4) technical aspects, and 5) completeness and clarity of presentation, adherence to test instructions, or missing required drawing (s). To obtain a passing grade, a candidate's solution must be at least minimally acceptable in every major category (Tr. p. 54-56; Ex. #3, p. 5; Ex. #5). The hypothetical building and site presented in the exam relate to the construction of a police headquarters building addition. The areas for improvement recommended by NCARB in reference to Maher's Division C exam solution are as follows (Ex. #11, p. 3):

(1) Program Requirements:

Compliance with required spatial relationships

(2) Design Logic:

Circulation
Spatial relationship/proportions/adjacencies
Compatibility to existing context

(3) Code Compliance:

Means of egress

(4) Technical Aspects:

Structural systems and their integration
Mechanical systems and their integration

The four areas of improvement recommended by NCARB relating to Maher's Division C examination solution were reviewed by Brian F. Larson, an architect, who testified at the hearing on behalf of the Department of Regulation and Licensing, Division of Enforcement. Mr. Larson has been involved with the grading of architectural examinations, as a grader and as a grading coordinator, for approximately 12 years. A grading coordinator serves on a committee which establishes grading criteria, trains graders and gives appellate gradings. Mr. Larson testified that if he was asked to grade Maher's exam, he would recommend the same four areas of improvement identified by NCARB. (Tr. p. 38-39; 56-57).

In addition, Mr. Larson testified that in his opinion, the examination solution which Maher provided in response to the program requirements for the Division C examination, is not a minimally competent response to the examination (Tr. p. 43-44; 103; Ex. #4). Mr. Larson's opinion is based upon the following observations:

(1) Program Requirements ¹.

- a. The program requirement provides that public toilets are to be placed in the public area. The solution reflects that the public toilets are placed in the private sector of the building (Tr. p. 46; Ex. #3, p. 8; Ex. #17).
 - b. The program requirement indicates that a garage door is to be included to provide access to a stolen property storage room. The solution reflects that the door is placed in such a way that it can only open about 4 to 4 1/2 feet. A standard overhead door height would probably be 8 ft. high (Tr. p. 46-47; Ex. #3, p. 9; Ex. #17).
 - c. There is a requirement that windows that are placed on a west elevation have protection from sunshine. The candidate does show some windows, but there is no evidence of any response to that program requirement at all. (Tr. p. 51).
 - d. The lieutenant of patrol's office is required to be 180 square feet. It is 150 square feet, which is less by about 20 percent. (Tr. p. 52).
1. Initial testimony provided by Mr. Larson indicated that the solution exceeded the total program area requirement of 10, 865 (plus or minus 10% allowable variance). He initially testified that the total area presented in the solution was 12, 918 sq. ft. Upon recalculation of the area, he determined that the area did not exceed program requirements. (Tr. p. 45-46; 60-63; Ex. #17).

(2) Design Logic

- a. There is a short corridor that leads from the lieutenant of patrol's office to a reception room. The width of that corridor is barely over 2 feet. Scaled off it looks about 28 inches which is narrower than the doors that lead into the lieutenant of patrol's office and does not meet standard exit width requirements. (Tr. p. 51).
- b. There are some difficult room shapes. The communications center on the first floor is an L-shaped room and one wing of that L-shaped room is about 7 1/2 feet wide. It would be difficult to lay equipment in such a room. On the upper floor there is a conference room which either does not meet the areas required by the program or would have to be counted as an extension of the room which is really just circulation. So that part of the room can't really be used as part of the conference room. There's a portion of the records room which is about four feet wide and ten feet long. It's kind of a little narrow wing. If one were to count it as part of the total space of the records room, it might meet the program requirement but it would be very difficult to use. (Tr. p. 49).

(3) Code Compliance

- a. There is an exit stair that is required to be fire enclosed, leading from the upper floor to the outside. At some point the drawing shows on the ground floor that the women's locker room opens into that stair. That does not occur on the upper floor. If, in fact, that is an opening, then the fire separation of that stair, which is a life safety item, is destroyed, and that would not be an accredited means of egress. If it is not open to the women's locker room, then the locker room is undersized. (Tr. p. 50).
- b. The accessibility requirements that are part of the examination indicates clearances adjacent to doorways on both the push side and the pull side of the door. The solution reflects that access is only given to doors at the lock side of the door or the side that a person would enter from the public. A width of 18 inches is required so that someone in a wheelchair can operate the door. This relates to the door into the lunch room, mechanical equipment room, the men's toilet and the janitor's room on the ground floor. On the upper floor plan, the detective's room, another janitor's room, women's staff toilet and the lieutenant of patrol's office. (Tr. p. 47-48; Ex. #5, p.7).
- c. The examination requires that there be a ramp to service the auditorium stage and requires that the ramps have handrails on both sides. In this instance, the ramp is steeper than the accessibility code and there is no railing shown on one side of the ramp. (Tr. p. 48-49).

(4) Technical Aspects

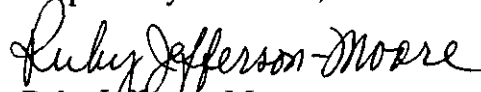
- a. There are some structural issues. There are some columns placed, for example, 6 or 8 inches away from a wall. That occurs in the communications center and in the public men's toilet on the ground floor. There are columns in the middle of the stolen property room and the mechanical room which might not be too serious. There is a column placed just away from a wall in the lobby reception area. In the women's staff toilet on the second floor there's a column that is just a few inches from a wall. In the captain's office on the second floor there is a column placed about 14 inches away from the wall, which is a problem in integrating a structural layout with a building plan. (Tr. p. 49-50).
- b. On the building section, the candidate shows a structural system consisting of steel joists, with steel decking with two-inch concrete topping, and then insulation, tapered at a half an inch to a foot and then a single-ply membrane. There is a strange gap that is shown. The building width is a little over 34 feet. There's a gap at the end of about 24 inches. There's a similar issue on the upper level roof. (Tr. p. 52).
- c. There are some strange column placements in the auditorium, between the auditorium and the rest of the building. There are three columns placed. One looks like it is about 7 feet from the other, and the other is about 4 1/2 feet on the ground floor and the same on the upper floor. A grader would have concern that the candidate is able to integrate the structural system with a building plan. (Tr. p. 51).

The evidence presented by Mr. Maher does not establish that his examination solution is a minimally competent response to the Division C exam, or that it is minimally acceptable in each of the major grading criteria categories established by NCARB. In fact, the evidence presented by the Department establishes that the solution is not a minimally competent response to the examination.

Based upon the record herein, the Administrative Law Judge recommends that the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors - Architect Section, adopt as its final decision in this matter, the proposed Findings of Fact, Conclusions of Law and Order as set forth herein.

Dated at Madison, Wisconsin this 27th day of October, 1994.

Respectfully submitted,


Ruby Jefferson-Moore
Administrative Law Judge

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:
THE STATE OF WISCONSIN EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS & LAND SURVEYORS.

1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708.

The Date of Mailing this Decision is:

DECEMBER 27, 1994.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)